

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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LATACHA COOK,

Plaintiff-Appellee,

v

ANTONY COOK,

Defendant-Appellant.

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UNPUBLISHED

March 16, 2004

No. 243839

Wayne Circuit Court

LC No. 01-108719-DM

Before: Griffin, P.J., and White and Donofrio, JJ.

WHITE, J. (*concurring in part and dissenting in part*).

I join the majority in affirming the custody award and vacating and remanding regarding the court's valuation of the marital home. I respectfully dissent, however, from the majority's conclusion that the court erred in failing to award defendant his down payment on the marital home as his separate estate.

I agree with the majority's statement of the law, but disagree with its conclusion. The trial court's statements on the record demonstrate that the court understood that because defendant contributed the down payment, that amount should be considered his separate property, and further understood that an exception to the requirement that the down payment be awarded to defendant as his separate property could appropriately be made if the estate to be awarded to plaintiff was insufficient for her and the children's support and maintenance. The trial court so found. This finding is not undermined by the fact that defendant is required to pay \$350 per week in child support. The earning disparity between the parties, \$250 per week, is not insignificant. Further, when the court makes the necessary adjustments on remand, the amount of the equity to be paid out to plaintiff will be correspondingly reduced. I would affirm the court's determination that the equity in the marital home should be split equally.

/s/ Helene N. White